

AMENDED IN ASSEMBLY APRIL 16, 1998

AMENDED IN ASSEMBLY APRIL 13, 1998

AMENDED IN ASSEMBLY MARCH 25, 1998

CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

## ASSEMBLY BILL

**No. 2102**

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**Introduced by Assembly Members Alby and Ortiz**  
**(Coauthors: Assembly Members Aguiar, *Bordonaro*, Bowler,**  
**Cardenas, Cunneen, Gallegos, Leach, Machado, Margett,**  
**Morrissey, Oller, Runner, Scott, and Strom-Martin)**  
(Coauthors: Senators Monteith, Solis, and Watson)

February 18, 1998

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An act to amend Sections 44237, 44332.6, 44830.1, 45125, and 45125.1 of, and to add Sections 44830.2 , 45125.01, and 45125.2 to, the Education Code, and to amend Sections 13370 and 13376 of the Vehicle Code, relating to school employees, and declaring the urgency thereof, to take effect immediately.

### LEGISLATIVE COUNSEL'S DIGEST

AB 2102, as amended, Alby. School employees.

(1) Existing law requires every person, firm, association, partnership, or corporation offering or conducting private school instruction on the elementary or high school level to require each applicant for employment in a position requiring contact with minor pupils who does not possess a valid California state teaching credential, or is not currently licensed by another state agency that requires a criminal record summary, to submit 2 sets of fingerprints to the

Department of Justice for the purpose of obtaining a criminal record summary from the Department of Justice and the Federal Bureau of Investigation.

This bill would instead apply this requirement to each applicant for a position as an employee, as defined, requiring contact with minor pupils who does not possess a valid credential issued by the Commission on Teacher Credentialing. This bill would make those provisions inapplicable to a secondary school pupil working at the school he or she attends or to a person to whom a certificate has been issued by the Department of Motor Vehicles, authorizing the person to operate a schoolbus and similar vehicles.

(2) Existing law requires a county or city and county board of education to obtain a criminal record summary about an applicant before issuing the applicant a temporary certificate of clearance and prohibits entities from issuing either certificate if the applicant has been convicted of a violent or serious felony.

This bill would authorize a county or city and county board of education to issue these temporary certificates without obtaining a criminal record summary for current employees in certain circumstances.

(3) Existing law prohibits school districts, as defined to also include county offices of education and the state special schools, from employing any individual, whether in a certificated or classified position, who has been convicted of a violent or serious felony. Existing law also applies this prohibition to charter schools. Existing law requires the Department of Justice, when the department ascertains an individual was an applicant for employment by a school district and has been convicted of a violent or serious felony, to notify the school district of that information.

Existing law, notwithstanding those provisions regarding employment of any person convicted of a violent or serious felony, prohibits a person from being denied employment or terminated from employment solely on the basis that the person has been convicted of a serious felony that is not also a violent felony, if that person has obtained a certificate of rehabilitation and pardon pursuant to specified provisions.



Existing law prohibits, notwithstanding those provisions pertaining to rehabilitation, a person from being denied employment or terminated solely on the basis that the person has been convicted of a serious felony that is not also a violent felony, if that person demonstrates he or she has been rehabilitated.

This bill would also prohibit school districts from employing, in a position requiring certification qualifications, any individual who has been convicted, as described, of a sex offense or a controlled substance offense, except as provided, thereby imposing a state-mandated local program. The bill would also apply those provisions pertaining to notification and rehabilitation to any individual who has been convicted of a sex offense or a controlled substance offense, thereby imposing a state-mandated local program.

(4) Existing law requires the governing board of a school district to require each person to be employed in a position not requiring certification to transmit fingerprint cards to the Department of Justice and requires the department to ascertain whether the applicant or employee has been arrested or convicted of a crime and to furnish that information to the school board. Under existing law, the governing board of a school district is prohibited from employing a person in a position not requiring certification until the Department of Justice performs the required background check.

This bill would make this provision prohibiting a governing board from employing a person in a position not requiring certification until the Department of Justice performs a background check inapplicable when a school district determines that an emergency or exceptional situation exists and that a delay would endanger pupil health or safety. This bill would authorize a county superintendent or school district, when a person is an applicant for employment or is employed on a part-time basis in a position requiring certification qualifications, or is an applicant for a noncertificated position, to agree among themselves to designate a single district or the county superintendent to act on behalf of the participating districts within the county to submit fingerprints to the Department of Justice, receive and

review criminal history information, and maintain common lists of persons eligible for employment.

(5) Existing law requires, except as provided, if the employees of any entity that has a contract with a school district, as defined, to provide janitorial, administrative, landscape, transportation, food-related, or similar services may have any contact with pupils that those employees are required to submit or have submitted their fingerprints in a manner authorized by the Department of Justice.

This bill would, instead, make those provisions applicable to any entity that has a contract to provide school and classroom janitorial, schoolsite administrative, schoolsite grounds and landscape maintenance, pupil transportation, or schoolsite food-related services, and would authorize the school district to determine, on a case-by-case basis, whether to require an entity providing services or certain services related to the construction of school facilities other than those services to comply with the requirements regarding the submission of fingerprints unless the district makes a specified determination. The bill would require an entity providing services related to the construction of school facilities to ensure the safety of pupils by certain means.

The bill would make those provisions inapplicable to an employee of an entity providing services to a school district if the employee has been issued a certificate by the Department of Motor Vehicles authorizing the person to operate a schoolbus and similar vehicles.

(6) Existing law requires the Department of Motor Vehicles to deny or revoke a schoolbus, school pupil activity bus, general public paratransit vehicle, or youth bus driver certificate if the applicant or certificate holder has been convicted of certain offenses and authorizes the department to do so if an applicant or certificate holder has been convicted of various offenses within 7 years of the application date.

This bill would instead require the Department of Motor Vehicles to deny or revoke such a permit to an applicant or certificate holder who has been convicted of any violent felony, as defined *if the applicant initially applies for the certificate on or after the effective date of the bill.*



(7) This bill would also make various changes to the procedures required when submitting, processing, and receiving fingerprint information under the law affected by the bill, including provisions concerning related fees and confidentiality of the records.

(8) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

(9) The bill would declare that it is to take effect immediately as an urgency statute.

Vote:  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 44237 of the Education Code is  
2 amended to read:  
3 44237. (a) Every person, firm, association,  
4 partnership, or corporation offering or conducting  
5 private school instruction on the elementary or high  
6 school level shall require each applicant for a position as  
7 an employee that requires contact with minor pupils who  
8 does not possess a valid California state credential issued  
9 by the Commission on Teacher Credentialing or is not  
10 currently licensed by another state agency that requires  
11 a criminal record summary that directly relates to  
12 services provided in a facility described in this section and  
13 has background clearance criteria that meets or exceeds  
14 the requirements of this section, to submit two sets of  
15 fingerprints prepared for submittal by the employer to  
16 the Department of Justice for the purpose of obtaining a

1 criminal record summary information from the  
2 Department of Justice and the Federal Bureau of  
3 Investigation.

4 (b) (1) As used in this section, “employer” means  
5 every person, firm, association, partnership, or  
6 corporation offering or conducting private school  
7 instruction on the elementary or high school level.

8 (2) As used in this section, “employee” means any  
9 person hired to work in a private school at the elementary  
10 or high school level on or after September 30, 1997, on a  
11 regular, full-time or regular, paid part-time basis who will  
12 have contact with minor pupils.

13 (3) This section does not apply to a secondary school  
14 pupil working at the school he or she attends or to a  
15 person to whom a certificate has been issued by the  
16 Department of Motor Vehicles authorizing the person to  
17 operate a vehicle identified in Section 12517, 12523, or  
18 12523.5 of the Vehicle Code.

19 (c) (1) Upon receiving the identification cards, the  
20 Department of Justice shall ascertain whether the  
21 applicant has been arrested or convicted of any crime  
22 insofar as that fact can be ascertained from information  
23 available to the department and forward the information  
24 to the employer submitting the fingerprints no more than  
25 15 working days after receiving the identification cards.  
26 The Department of Justice shall not forward information  
27 regarding criminal proceedings that did not result in a  
28 conviction but shall forward information on arrests  
29 pending adjudication.

30 (2) Upon implementation of an electronic  
31 fingerprinting system with terminals located statewide  
32 and managed by the Department of Justice, the  
33 Department of Justice shall ascertain the information  
34 required pursuant to this subdivision within three  
35 working days. If the Department of Justice cannot  
36 ascertain the information required pursuant to this  
37 subdivision within three working days, the department  
38 shall notify the employer submitting the fingerprints that  
39 it cannot so ascertain the required information. This  
40 notification shall be delivered by telephone or electronic

1 mail to the employer submitting the fingerprints. If the  
2 employer submitting the fingerprints is notified by the  
3 Department of Justice that it cannot ascertain the  
4 required information about a person, the employer may  
5 not employ that person until the Department of Justice  
6 ascertains that information.

7 (3) The Department of Justice shall review the  
8 criminal record summary it obtains from the Federal  
9 Bureau of Investigation to ascertain whether an applicant  
10 for employment has a conviction or an arrest pending  
11 final adjudication for any sex offense, controlled  
12 substance offense, crime of violence, or serious violent  
13 felony. The Department of Justice shall provide written  
14 notification to the private school employer only as to  
15 whether an applicant for employment has any  
16 convictions or arrests pending final adjudication for any  
17 of these crimes but shall not provide information  
18 identifying any offense for which an existing employee  
19 was convicted or arrested.

20 (d) An employer shall not employ a person until the  
21 Department of Justice completes its check of the state  
22 criminal history file as set forth in this section.

23 (e) A person, firm, association, partnership, or  
24 corporation offering or conducting private school  
25 instruction on the elementary or high school level shall  
26 not employ person who has been convicted of a violent  
27 or serious felony.

28 (f) An employer shall request subsequent arrest  
29 service from the Department of Justice as provided under  
30 Section 11105.2 of the Penal Code.

31 (g) This section applies to any violent or serious  
32 offense which, if committed in this state, would have been  
33 punishable as a violent or serious felony.

34 (h) For purposes of this section, a violent felony is any  
35 felony listed in subdivision (c) of Section 667.5 of the  
36 Penal Code and a serious felony is any felony listed in  
37 subdivision (c) of Section 1192.7 of the Penal Code.

38 (i) Notwithstanding subdivision (e), a person shall not  
39 be denied employment or terminated from employment  
40 solely on the basis that the person has been convicted of

1 a violent or serious felony if the person has obtained a  
2 certificate of rehabilitation and pardon pursuant to  
3 Chapter 3.5 (commencing with Section 4852.01) of Title  
4 6 of Part 3 of the Penal Code.

5 (j) Notwithstanding subdivision (e), a person shall not  
6 be denied employment or terminated from employment  
7 solely on the basis that the person has been convicted of  
8 a serious felony that is not also a violent felony if that  
9 person can prove to the sentencing court of the offense  
10 in question, by clear and convincing evidence, that he or  
11 she has been rehabilitated for the purposes of school  
12 employment for at least one year. If the offense in  
13 question occurred outside this state, then the person may  
14 seek a finding of rehabilitation from the court in the  
15 county in which he or she is a resident.

16 (k) The Commission on Teacher Credentialing shall  
17 send on a monthly basis to each private school a list of all  
18 teachers who have had their state teaching credential  
19 revoked or suspended. The list shall be identical to the list  
20 compiled for public schools in the state. The commission  
21 shall also send on a quarterly basis a complete and  
22 updated list of all teachers who have had their teaching  
23 credentials revoked or suspended, excluding teachers  
24 who have had their credentials reinstated, or who are  
25 deceased.

26 (l) The Department of Justice may charge a  
27 reasonable fee to cover costs associated with the  
28 processing, reviewing, and supplying of the criminal  
29 record summary as required by this section. In no event  
30 shall the fee exceed the actual costs incurred by the  
31 department.

32 (m) Where reasonable access to the statewide,  
33 electronic fingerprinting network is available, the  
34 Department of Justice may mandate electronic  
35 submission of the fingerprints and related information  
36 required by this section.

37 (n) All information obtained from the Department of  
38 Justice is confidential. Agencies handling Department of  
39 Justice information shall ensure the following:





1 (1) No recipient shall disclose its contents or provide  
2 copies of information.

3 (2) Information received shall be stored in a locked file  
4 separate from other files, and shall only be accessible to  
5 the custodian of records.

6 (3) Information received shall be destroyed upon the  
7 hiring determination in accordance with subdivision (a)  
8 of Section 708 of Title 11 of the California Code of  
9 Regulations.

10 (4) Compliance with destruction, storage,  
11 dissemination, auditing, backgrounding, and training  
12 requirements as set forth in Sections 700 through 708,  
13 inclusive, of Title 11 of the California Code of Regulations  
14 and Section 11077 of the Penal Code governing the use  
15 and security of criminal offender record information is  
16 the responsibility of the entity receiving the information  
17 from the Department of Justice.

18 SEC. 1.5. Section 44332.6 of the Education Code is  
19 amended to read:

20 44332.6. (a) (1) Before issuing a temporary  
21 certificate pursuant to Section 44332, a county or city and  
22 county board of education shall obtain a criminal record  
23 summary about the applicant from the Department of  
24 Justice and shall not issue a temporary certificate if the  
25 applicant has been convicted of a violent or serious  
26 felony.

27 (2) Before issuing a temporary certificate of clearance  
28 pursuant to Section 44332.5, a school district shall obtain  
29 a criminal record summary about the applicant from the  
30 Department of Justice and shall not issue a temporary  
31 certificate of clearance if the applicant has been  
32 convicted of a violent or serious felony.

33 (b) This section applies to any violent or serious  
34 offense which, if committed in this state would have been  
35 punishable as a violent or serious felony.

36 (c) For purposes of this section, a violent felony is any  
37 felony listed in subdivision (c) of Section 667.5 of the  
38 Penal Code and a serious felony is any felony listed in  
39 subdivision (c) of Section 1192.7 of the Penal Code.

(d) Notwithstanding subdivisions (a) and (b), a person shall not be denied a temporary certificate or a temporary certificate of clearance solely on the basis that he or she has been convicted of a violent or serious felony if the person has obtained a certificate of rehabilitation and pardon pursuant to Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code.

(1) Notwithstanding paragraph (1) of subdivision (a), a county or city and county board of education may issue a temporary certificate to an employee currently and continuously employed by a school district within the county who is serving under a valid credential and has applied for a renewal of that credential or for an additional credential without obtaining a criminal record summary for that employee.

(2) Notwithstanding paragraph (2) of subdivision (a), a county or city and county board of education may issue a temporary certificate of clearance to an employee currently and continuously employed by a school district within the county who is serving under a valid credential and has applied for a renewal of that credential or for an additional credential without obtaining a criminal record summary for that employee.

SEC. 2. Section 44830.1 of the Education Code is amended to read:

44830.1. (a) In addition to any other prohibition or provision, no person who has been convicted of a violent or serious felony, any sex offense, as defined in Section 44010, or any controlled substance offense, as defined in Section 44011 shall be employed by a school district in a position requiring certification qualifications or supervising positions requiring certification qualifications. A school district shall not retain in employment a current certificated employee who has been convicted of a violent or serious felony, and who is a temporary employee, a substitute employee, or a probationary employee serving before March 15 of the employee's second probationary year. For purposes of this section, a plea of nolo contendere to a serious or violent felony, or to any crime enumerated in Section

1 44010 or 44011, constitutes a conviction. If any conviction  
2 is reversed and the formerly convicted person is  
3 acquitted of the offense in a new trial, this section does not  
4 prohibit his or her employment thereafter. A governing  
5 board may employ a person convicted of a controlled  
6 substance offense in a position requiring certification  
7 qualifications if that person holds an appropriate  
8 credential issued by the Commission on Teacher  
9 Credentialing.

10 (b) This section applies to any violent or serious  
11 offense which, if committed in this state, would have been  
12 punishable as a violent or serious felony.

13 (c) (1) For purposes of this section, a violent felony is  
14 any felony listed in subdivision (c) of Section 667.5 of the  
15 Penal Code and a serious felony is any felony listed in  
16 subdivision (c) of Section 1192.7 of the Penal Code.

17 (2) For purposes of this section, the term “school  
18 district” has the same meaning as defined in Section  
19 41302.5.

20 (d) When the governing board of any school district  
21 requests a criminal record summary of a temporary  
22 substitute or probationary certification employee, two  
23 fingerprint cards, bearing the legible rolled and flat  
24 impressions of the person’s fingerprints together with a  
25 personal description and the fee, shall be submitted, by  
26 any means authorized by the Department of Justice, to  
27 the Department of Justice.

28 (e) When the Department of Justice ascertains that an  
29 individual who is an applicant for employment by a school  
30 district has been convicted of a violent or serious felony,  
31 any sex offense, as defined in Section 44010, or any  
32 controlled substance offense, as defined in Section 44011,  
33 the department shall notify the school district of the  
34 criminal information pertaining to the applicant. The  
35 notification shall be delivered by telephone or electronic  
36 mail to the school district. The notification to the school  
37 district shall cease to be made once the statewide  
38 electronic fingerprinting network is returning responses  
39 within three working days. The Department of Justice  
40 shall send by first-class mail or electronic mail a copy of

1 the criminal information to the Commission on Teacher  
2 Credentialing. At the request of the school district, the  
3 Department of Justice shall forward one copy of the  
4 fingerprint card to the Federal Bureau of Investigation  
5 for the purpose of obtaining any record of previous  
6 convictions of the employee. The Department of Justice  
7 may charge a reasonable fee to cover the costs associated  
8 with processing, reviewing, and supplying the criminal  
9 record summary required by this section. In no event  
10 shall the fee exceed the actual costs incurred by the  
11 department.

12 (f) Notwithstanding subdivision (a), a person shall not  
13 be denied employment or terminated from employment  
14 solely on the basis that the person has been convicted of  
15 a violent or serious felony, any sex offense, as defined in  
16 Section 44010, or any controlled substance offense, as  
17 defined in Section 44011 if the person has obtained a  
18 certificate of rehabilitation and pardon pursuant to  
19 Chapter 3.5 (commencing with Section 4852.01) of Title  
20 6 of Part 3 of the Penal Code.

21 (g) Notwithstanding subdivision (e), a person shall  
22 not be denied employment or terminated from  
23 employment solely on the basis that the person has been  
24 convicted of a serious felony that is not also a violent  
25 felony, any sex offense, as defined in Section 44010, or any  
26 controlled substance offense, as defined in Section 44011  
27 if that person can prove to the sentencing court of the  
28 offense in question, by clear and convincing evidence,  
29 that he or she has been rehabilitated for the purposes of  
30 school employment for at least one year. If the offense in  
31 question occurred outside this state, then the person may  
32 seek a finding of rehabilitation from the court in the  
33 school district in which he or she is a resident.

34 (h) Notwithstanding any other provision of law, when  
35 the Department of Justice notifies a school district by  
36 telephone or electronic mail that a current temporary  
37 employee, substitute employee, or probationary  
38 employee serving before March 15 of the employee's  
39 second probationary year, has been convicted of a violent  
40 or serious felony, any sex offense, as defined in Section



1 44010, or any controlled substance offense, as defined in  
2 Section 44011 that employee shall immediately be placed  
3 on leave without pay. When the school district receives  
4 written electronic notification of the fact of conviction  
5 from the Department of Justice, the employee shall be  
6 terminated automatically and without regard to any  
7 other procedure for termination specified in this code or  
8 school district procedures unless the employee  
9 challenges the record of the Department of Justice and  
10 the Department of Justice withdraws in writing its  
11 notification to the school district. Upon receipt of written  
12 withdrawal of notification from the Department of  
13 Justice, the employee shall immediately be reinstated  
14 with full restoration of salary and benefits for the period  
15 of time from the suspension without pay to the  
16 reinstatement.

17 (i) An employer shall request subsequent arrest  
18 service from the Department of Justice as provided under  
19 Section 11105.2 of the Penal Code.

20 (j) Notwithstanding Section 47610, this section applies  
21 to a charter school.

22 (k) This section shall not apply to a certificated  
23 employee who applies to renew his or her credential  
24 when both of the following conditions have been met:

25 (1) The employee's original application for credential  
26 was accompanied by that person's fingerprints.

27 (2) The employee has either been continuously  
28 employed in one or more public school districts since the  
29 issuance or last renewal of his or her credential or his or  
30 her credential has not expired between renewals.

31 (l) Nothing in this section shall prohibit a county  
32 superintendent of schools from issuing a temporary  
33 certificate to any person described in paragraph (1) or  
34 (2) of subdivision (k).

35 (m) All information obtained from the Department of  
36 Justice is confidential. Every agency handling  
37 Department of Justice information shall ensure the  
38 following:

39 (1) No recipient may disclose its contents or provide  
40 copies of information.

1 (2) Information received shall be stored in a locked file  
2 separate from other files, and shall only be accessible to  
3 the custodian of records.

4 (3) Information received shall be destroyed upon the  
5 hiring determination in accordance with subdivision (a)  
6 of Section 708 of Title 11 of the California Code of  
7 Regulations.

8 (4) Compliance with destruction, storage,  
9 dissemination, auditing, backgrounding, and training  
10 requirements as set forth in Sections 700 through 708  
11 inclusive, of Title 11 of the California Code of Regulations  
12 and Section 11077 of the Penal Code governing the use  
13 and security of criminal offender record information is  
14 the responsibility of the entity receiving the information  
15 from the Department of Justice.

16 SEC. 3. Section 44830.2 is added to the Education  
17 Code, to read:

18 44830.2. (a) When a person is an applicant for  
19 employment or is employed on a part-time or substitute  
20 basis in a position requiring certification qualifications in  
21 multiple school districts within a county or within  
22 contiguous counties, the districts may agree among  
23 themselves to designate a single district, or a county  
24 superintendent may agree to act on behalf of  
25 participating districts within the county or contiguous  
26 counties, for the purposes of performing the following  
27 functions:

28 (1) Sending fingerprints to the Department of Justice.

29 (2) Receiving reports of convictions of serious and  
30 violent felonies.

31 (3) Reviewing criminal history records and reports of  
32 subsequent arrests from the Department of Justice.

33 (4) Maintaining common lists of persons eligible for  
34 employment.

35 (b) The school district or county superintendent  
36 serving in the capacity authorized in subdivision (a) shall  
37 be considered the employer for purposes of subdivisions  
38 (a), (d), and (g) of Section 44830.1.

39 (c) Upon receipt from the Department of Justice of a  
40 report of conviction of a serious or violent felony, the

1 designated school district or county superintendent shall  
2 communicate that fact to the participating districts and  
3 remove the affected employee from the common list of  
4 persons eligible for employment.

5 (d) Upon receipt from the Department of Justice of a  
6 criminal history record or report of subsequent arrest for  
7 any person on a common list of persons eligible for  
8 employment, the designated school district or county  
9 superintendent shall give notice to the superintendent of  
10 any participating district or a person designated in  
11 writing by that superintendent, that the report is  
12 available for inspection on a confidential basis by the  
13 superintendent or authorized designee, at the office of  
14 the designated school district or county superintendent,  
15 for a period of 30 days following receipt of notice, to  
16 enable the employing school district to determine  
17 whether the employee meets that district's criteria for  
18 continued employment. The designated school district or  
19 county superintendent shall not release a copy of that  
20 information to any participating district or any other  
21 person, shall retain or dispose of the information in the  
22 manner required by law after all participating districts  
23 have had an opportunity to inspect it in accordance with  
24 this section, and shall maintain a record of all persons to  
25 whom the information has been shown that shall be  
26 available to the Department of Justice to monitor  
27 compliance with the requirements of confidentiality  
28 contained in this section.

29 (e) Any agency processing Department of Justice  
30 responses pursuant to this section shall submit an  
31 interagency agreement to the Department of Justice to  
32 establish authorization to submit and receive information  
33 pursuant to this section.

34 (f) All information obtained from the Department of  
35 Justice is confidential. Every agency handling  
36 Department of Justice information shall ensure the  
37 following:

38 (1) No recipient may disclose its contents or provide  
39 copies of information.

1 (2) Information received shall be stored in a locked file  
2 separate from other files, and shall only be accessible to  
3 the custodian of records.

4 (3) Information received shall be destroyed upon the  
5 hiring determination in accordance with subdivision (a)  
6 of Section 708 of Title 11 of the California Code of  
7 Regulations.

8 (4) Compliance with destruction, storage,  
9 dissemination, auditing, backgrounding, and training  
10 requirements as set forth in Sections 700 through 708,  
11 inclusive, of Title 11 of the California Code of Regulations  
12 and Section 11077 of the Penal Code governing the use  
13 and security of criminal offender record information is  
14 the responsibility of the entity receiving the information  
15 from the Department of Justice.

16 SEC. 4. Section 45125 of the Education Code is  
17 amended to read:

18 45125. (a) Except as provided in Section 45125.01,  
19 the governing board of any school district shall require  
20 each person to be employed in a position not requiring  
21 certification qualifications, except a school district  
22 employee or an employee of an entity providing services  
23 to a school district if the employee has been issued a  
24 certificate by the Department of Motor Vehicles  
25 authorizing the person to operate a vehicle identified in  
26 Section 12517, 12523, or 12523.5 of the Vehicle Code, or a  
27 secondary school pupil employed in a temporary or  
28 part-time position by the governing board of the school  
29 district having jurisdiction over the school attended by  
30 the pupil, to have two fingerprint cards bearing the  
31 legible rolled and flat impressions of the person's  
32 fingerprints together with a personal description of the  
33 applicant prepared by a local public law enforcement  
34 agency having jurisdiction in the area of the school  
35 district, which agency shall transmit the cards, together  
36 with the fee required by subdivision (f), to the  
37 Department of Justice; except that any district, or  
38 districts with a common board, may process the  
39 fingerprint cards if the district so elects. "Local public law  
40 enforcement agency" as used herein includes any school



1 district and as used in Section 45126 requires the  
2 Department of Justice to provide to any school district,  
3 upon application, information pertaining only to  
4 applicants for employment by the district, including  
5 applicants who are employees of another district.

6 (b) (1) Upon receiving the fingerprint cards, the  
7 Department of Justice shall ascertain whether the  
8 applicant has been arrested or convicted of any crime  
9 insofar as that fact can be ascertained from information  
10 available to the department and forward the information  
11 to the employing agency submitting the applicant's  
12 fingerprints no more than 15 working days after receiving  
13 the fingerprint cards. The Department of Justice shall not  
14 forward records of criminal proceedings that did not  
15 result in a conviction but shall forward information on  
16 arrests pending adjudication.

17 (2) Upon implementation of an electronic  
18 fingerprinting system with terminals located statewide  
19 and managed by the Department of Justice, the  
20 Department of Justice shall ascertain the information  
21 required pursuant to this subdivision within three  
22 working days. If the Department of Justice cannot  
23 ascertain the information required pursuant to this  
24 subdivision within three working days, the department  
25 shall notify the school district that it cannot so ascertain  
26 the required information. This notification shall be  
27 delivered by telephone or electronic mail to the school  
28 district. If a school district is notified by the Department  
29 of Justice that it cannot ascertain the required  
30 information about a person, the school district may not  
31 employ that person until the Department of Justice  
32 ascertains that information. At the request of the school  
33 district, the Department of Justice will forward one copy  
34 of the fingerprint card to the Federal Bureau of  
35 Investigation for the purpose of obtaining any record of  
36 previous convictions of the applicant or employee.

37 (c) The governing board of a school district shall not  
38 employ a person until the Department of Justice  
39 completes its obligations as set forth in this section and  
40 Sections 45125.5 and 45126, except that this subdivision

1 does not apply to secondary school pupils who are to be  
2 employed in a temporary or part-time position by the  
3 governing board of the school district having jurisdiction  
4 over the school they attend.

5 (d) The governing board of each district shall  
6 maintain a list indicating the number of current  
7 employees, except secondary school pupils employed in  
8 a temporary or part-time position by the governing board  
9 of the school district having jurisdiction over the school  
10 they attend, who have not completed the requirements  
11 of this section. The Department of Justice shall process  
12 these cards within 30 working days of their receipt and  
13 any cards in its possession on the date of the amendment  
14 of this section by Assembly Bill 1610 of the 1997-98  
15 Regular Session within 30 working days of that date.  
16 School districts that have previously submitted  
17 identification cards for current employees to either the  
18 Department of Justice or the Federal Bureau of  
19 Investigation shall not be required to further implement  
20 the provisions of this section as it applies to those  
21 employees.

22 (e) A plea or verdict of guilty or a finding of guilt by  
23 a court in a trial without a jury or forfeiture of bail is  
24 deemed to be a conviction within the meaning of this  
25 section, irrespective of a subsequent order under the  
26 provisions of Section 1203.4 of the Penal Code allowing  
27 the withdrawal of the plea of guilty and entering of a plea  
28 of not guilty, or setting aside the verdict of guilty, or  
29 dismissing the accusations or information.

30 (f) The school district shall provide the means  
31 whereby the fingerprint cards may be completed and  
32 may charge a fee determined by the Department of  
33 Justice to be sufficient to reimburse the department for  
34 the costs incurred in processing the application. The  
35 amount of the fee shall be forwarded to the Department  
36 of Justice, with required copies of applicant's fingerprint  
37 cards. The governing board may collect a reasonable fee  
38 payable to the local public law enforcement agency  
39 taking the fingerprints and completing the data on the  
40 fingerprint cards. In no event shall the fee exceed the

1 actual costs incurred by the agency. The additional fees  
2 shall be transmitted to the city or county treasury. If an  
3 applicant is subsequently hired by the board within 30  
4 days of the application, the fee may be reimbursed to the  
5 applicant. Funds not reimbursed to applicants shall be  
6 credited to the general fund of the district. If the  
7 fingerprint cards forwarded to the Department of Justice  
8 are those of a person already in the employ of the  
9 governing board, the district shall pay the fee required by  
10 this section, which fee shall be a proper charge against the  
11 general fund of the district, and no fee shall be charged  
12 the employee.

13 (g) This section applies to substitute and temporary  
14 employees regardless of length of employment.

15 (h) Subdivision (c) of this section shall not apply to a  
16 person to be employed if a school district determines that  
17 an emergency or an exceptional situation exists, and that  
18 a delay in filling the position in which the person would  
19 be employed would endanger pupil health or safety.

20 (i) Where reasonable access to the statewide,  
21 electronic fingerprinting network is available, the  
22 Department of Justice may mandate electronic  
23 submission of the fingerprints and related information  
24 required by this section.

25 (j) All information obtained from the Department of  
26 Justice is confidential. Each agency handling  
27 Department of Justice information shall ensure the  
28 following:

29 (1) No recipient may disclose its contents or provide  
30 copies of information.

31 (2) Information received shall be stored in a locked file  
32 separate from other files, and shall only be accessible to  
33 the custodian of records.

34 (3) Information received shall be destroyed upon the  
35 hiring determination in accordance with subdivision (a)  
36 of Section 708 of Title 11 of the California Code of  
37 Regulations.

38 (4) Compliance with destruction, storage,  
39 dissemination, auditing, backgrounding, and training  
40 requirements as set forth in Sections 700 through 708,

1 inclusive, of Title 11 of the California Code of Regulations  
2 and Section 11077 of the Penal Code governing the use  
3 and security of criminal offender record information is  
4 the responsibility of the entity receiving the information  
5 from the Department of Justice.

6 SEC. 5. Section 45125.01 is added to the Education  
7 Code, to read:

8 45125.01. (a) When a person is an applicant for  
9 employment or is employed on a part-time or substitute  
10 basis in a position not requiring certification  
11 qualifications in multiple school districts within a county  
12 or within contiguous counties, the districts may agree  
13 among themselves to designate a single district, or a  
14 county superintendent may agree to act on behalf of  
15 participating districts within the county or contiguous  
16 counties, for the purposes of performing the following  
17 duties:

18 (1) Sending fingerprints to the Department of Justice.

19 (2) Receiving reports of convictions of serious and  
20 violent felonies, criminal history records and reports of  
21 subsequent arrests from the Department of Justice.

22 (3) Maintaining common lists of persons eligible for  
23 employment.

24 (b) The school district or county superintendent  
25 serving in the capacity authorized in subdivision (a) shall  
26 be considered the employer for purposes of subdivisions  
27 (a) and (f) of Section 45125.

28 (c) Upon receipt from the Department of Justice of a  
29 report of conviction of a serious or violent felony, the  
30 designated school district or county superintendent shall  
31 communicate that fact to the participating districts and  
32 remove the affected employee from the common list of  
33 persons eligible for employment.

34 (d) Upon receipt from the Department of Justice of a  
35 criminal history record or report of subsequent arrest for  
36 any person on a common list of persons eligible for  
37 employment, the designated school district or county  
38 superintendent shall give notice to the superintendent of  
39 any participating district or a person designated in  
40 writing by that superintendent, that the report is

1 available for inspection on a confidential basis by the  
2 superintendent or authorized designee, at the office of  
3 the designated school district or county superintendent,  
4 for a period of 30 days following receipt of notice to enable  
5 the employing school district to determine whether the  
6 employee meets that district's criteria for continued  
7 employment. The designated school district or county  
8 superintendent shall not release a copy of that  
9 information to any participating district or any other  
10 person, shall retain or dispose of the information in the  
11 manner required by law after all participating districts  
12 have had an opportunity to inspect it in accordance with  
13 this section, and shall maintain a record of all persons to  
14 whom the information has been shown that shall be  
15 available to the Department of Justice to monitor  
16 compliance with the requirements of confidentiality  
17 contained in this section.

18 (e) Any agency processing Department of Justice  
19 responses pursuant to this section shall submit an  
20 interagency agreement to the Department of Justice to  
21 establish authorization to submit and receive information  
22 pursuant to this section.

23 (f) All information obtained from the Department of  
24 Justice is confidential. Every agency handling  
25 Department of Justice information shall ensure the  
26 following:

27 (1) No recipient may disclose its contents or provide  
28 copies of information.

29 (2) Information received shall be stored in a locked file  
30 separate from other files, and shall only be accessible to  
31 the custodian of records.

32 (3) Information received shall be destroyed upon the  
33 hiring determination in accordance with subdivision (a)  
34 of Section 708 of Title 11 of the California Code of  
35 Regulations.

36 (4) Compliance with destruction, storage,  
37 dissemination, auditing, backgrounding, and training  
38 requirements as set forth in Sections 700 through 708,  
39 inclusive, of Title 11 of the California Code of Regulations  
40 and Section 11077 of the Penal Code governing the use

1 and security of criminal offender record information is  
2 the responsibility of the entity receiving the information  
3 from the Department of Justice.

4 SEC. 6. Section 45125.1 of the Education Code is  
5 amended to read:

6 45125.1. (a) Except as provided in subdivisions (b) ,  
7 (c), and (d), if the employees of any entity that has a  
8 contract with a school district, as defined in Section  
9 41302.5, to provide any of the following services may have  
10 any contact with pupils, those employees shall submit or  
11 have submitted their fingerprints in a manner authorized  
12 by the Department of Justice together with a fee  
13 determined by the Department of Justice to be sufficient  
14 to reimburse the department for its costs incurred in  
15 processing the application:

- 16 (1) School and classroom janitorial.
- 17 (2) Schoolsite administrative.
- 18 (3) Schoolsite grounds and landscape maintenance.
- 19 (4) Pupil transportation.
- 20 (5) Schoolsite food-related.

21 (b) This section shall not apply to an entity providing  
22 any of the services listed in subdivision (a) to a school  
23 district in an emergency or exceptional situation, such as  
24 when pupil health or safety is endangered or when  
25 repairs are needed to make school facilities safe and  
26 habitable.

27 (c) This section shall not apply to an entity providing  
28 any of the services listed in subdivision (a) to a school  
29 district when the school district determines that the  
30 employees of the entity will have limited contact with  
31 pupils. In determining whether a contract employee has  
32 limited contact with pupils, the school district shall  
33 consider the totality of the circumstances, including  
34 factors such as the length of time the contractors will be  
35 on school grounds, whether pupils will be in proximity  
36 with the site where the contractors will be working, and  
37 whether the contractors will be working by themselves or  
38 with others. If a school district has made this  
39 determination, the school district shall take appropriate



1 steps to protect the safety of any pupils that may come in  
2 contact with these employees.

3 (d) This section does not apply to an employee of an  
4 entity providing services to a school district if the  
5 employee has been issued a certificate by the  
6 Department of Motor Vehicles authorizing the person to  
7 operate a vehicle identified in Section 12517, 12523, or  
8 12523.5 of the Vehicle Code.

9 (e) A school district may determine, on a case-by-case  
10 basis, to require an entity providing services other than  
11 those listed in subdivision (a) or those described in  
12 Section 45125.2 and the entity's employees to comply with  
13 the requirements of this section, unless the school district  
14 determines that the employees of the entity will have  
15 limited contact with pupils. In determining whether a  
16 contract employee will have limited contact with pupils,  
17 the school district shall consider the totality of the  
18 circumstances, including factors such as the length of  
19 time the contractors will be on school grounds, whether  
20 pupils will be in proximity with the site where the  
21 contractors will be working, and whether the contractors  
22 will be working by themselves or with others. If a school  
23 district makes this determination, the school district shall  
24 take appropriate steps to protect the safety of any pupils  
25 that may come in contact with these employees. If a  
26 school district requires an entity providing services other  
27 than those listed in subdivision (a) and its employees to  
28 comply with the requirements of this section, the  
29 Department of Justice shall comply with subdivision (f).

30 (f) (1) The Department of Justice shall ascertain  
31 whether the individual whose fingerprints were  
32 submitted to it pursuant to subdivision (a) has been  
33 arrested or convicted of any crime insofar as that fact can  
34 be ascertained from information available to the  
35 department. Upon implementation of an electronic  
36 fingerprinting system with terminals located statewide  
37 and managed by the Department of Justice, the  
38 department shall ascertain the information required  
39 pursuant to this section within three working days. When  
40 the Department of Justice ascertains that an individual

1 whose fingerprints were submitted to it pursuant to  
2 subdivision (a) has a pending criminal proceeding for a  
3 felony as defined in Section 45122.1 or has been convicted  
4 of a felony as defined in Section 45122.1, the department  
5 shall notify the employer designated by the individual of  
6 that fact. The notification shall be delivered by telephone  
7 or electronic mail to the employer.

8 (2) The Department of Justice may forward one copy  
9 of the fingerprints to the Federal Bureau of Investigation  
10 to verify any record of previous arrests or convictions of  
11 the applicant. The Department of Justice shall review the  
12 criminal record summary it obtains from the Federal  
13 Bureau of Investigation and shall notify the employer  
14 only as to whether or not an applicant has any convictions  
15 or arrests pending adjudication for offenses which, if  
16 committed in California, would have been punishable as  
17 a violent or serious felony. The Department of Justice  
18 shall not provide any specific offense information  
19 received from the Federal Bureau of Investigation. The  
20 Department of Justice shall provide written notification  
21 to the contract employer only concerning whether an  
22 applicant for employment has any conviction or arrest  
23 pending final adjudication for any of those crimes, as  
24 specified in Section 45122.1, but shall not provide any  
25 information identifying any offense for which an existing  
26 employee was convicted or has an arrest pending final  
27 adjudication.

28 (g) An entity having a contract as specified in  
29 subdivision (a) and an entity required to comply with this  
30 section pursuant to subdivision (e) shall not permit an  
31 employee to come in contact with pupils until the  
32 Department of Justice has ascertained that the employee  
33 has not been convicted of a felony as defined in Section  
34 45122.1.

35 (h) An entity having a contract as specified in  
36 subdivision (a) and an entity required to comply with this  
37 section pursuant to subdivision (e) shall certify in writing  
38 to the school district that neither the employer nor any  
39 of its employees who are required by Section 45125.1 to  
40 submit or have their fingerprints submitted to the



1 Department of Justice and who may come in contact with  
2 pupils have been convicted of a felony as defined in  
3 Section 45122.1.

4 (i) An entity having a contract as specified in  
5 subdivision (a) on the effective date of this section and an  
6 entity required to comply with this section pursuant to  
7 subdivision (e) by a school district with which it has a  
8 contract on the effective date of the amendments made  
9 to this section during the 1997–98 Regular Session shall  
10 complete the requirements of this section within 90 days  
11 of that date.

12 (j) For purposes of this section, a person, firm,  
13 association, partnership, or corporation offering or  
14 conducting private school instruction on the elementary  
15 or high school level and a charter school shall be deemed  
16 to be a school district.

17 (k) Where reasonable access to the statewide  
18 electronic fingerprinting network is available, the  
19 Department of Justice may mandate electronic  
20 submission of the fingerprint cards and other information  
21 required by this section.

22 SEC. 6.5. Section 45125.2 is added to the Education  
23 Code, to read:

24 45125.2. Notwithstanding subdivision (e) of Section  
25 45125.1, a school district contracting with an entity for the  
26 construction, reconstruction, rehabilitation, or repair of  
27 a school facility where the employees of the entity will  
28 have contact, other than limited contact, with pupils shall  
29 ensure the safety of the pupils by one or more of the  
30 following methods:

31 (a) The installation of a physical barrier at the worksite  
32 to limit contact with pupils.

33 (b) Continual supervision and monitoring of all  
34 employees of the entity by an employee of the entity  
35 whom the Department of Justice has ascertained has not  
36 been convicted of an offense pursuant to subdivision (e)  
37 of Section 44830.1.

38 (c) Surveillance of employees of the entity by school  
39 personnel.

1 SEC. 7. Section 13370 of the Vehicle Code is amended  
2 to read:

3 13370. (a) The department shall deny or revoke a  
4 schoolbus, school pupil activity bus, general public  
5 paratransit vehicle, or youth bus driver certificate if any  
6 of the following causes apply to the applicant or  
7 certificate holder:

8 (1) Has been convicted of any sex offense as defined in  
9 Section 44010 of the Education Code.

10 (2) Has been convicted, within the two years  
11 preceding the application date, of any offense specified  
12 in Section 11361.5 of the Health and Safety Code.

13 (3) Has failed to meet prescribed testing or training  
14 requirements for certificate issuance.

15 (4) (A) Has been convicted of any violent felony  
16 listed in subdivision (c) of Section 667.5 of the Penal Code  
17 or any serious felony listed in subdivision (c) of Section  
18 1192.7 of the Penal Code.

19 (B) *Subparagraph (A) applies only to an applicant*  
20 *who initially applies for a schoolbus, school pupil activity*  
21 *bus, general public paratransit vehicle, or youth bus*  
22 *driver certificate on or after the effective date of the act*  
23 *adding this paragraph.*

24 (b) The department may deny, suspend, or revoke a  
25 schoolbus, school pupil activity bus, general public  
26 paratransit vehicle, or youth bus driver certificate if any  
27 of the following causes apply to the applicant or  
28 certificate holder:

29 (1) Has been convicted of any crime specified in  
30 Section 44424 of the Education Code, *within seven years*  
31 *preceding the application date.* This paragraph does not  
32 apply if denial is mandatory.

33 (2) Has committed any act involving moral turpitude.

34 (3) Has been convicted of any offense, not specified in  
35 this section and other than a sex offense, that is punishable  
36 as a felony, within the seven years preceding the  
37 application date.

38 (4) Has been dismissed as a driver for a cause relating  
39 to pupil transportation safety.

1 (5) Has been convicted, within the seven years  
2 preceding the application date, of any offense relating to  
3 the use, sale, possession, or transportation of narcotics,  
4 habit-forming drugs, or dangerous drugs, except as  
5 provided in paragraph (3) of subdivision (a).

6 (c) (1) Reapplication following denial or revocation  
7 under subdivision (a) or (b) may be made after a period  
8 of not less than one year from the effective date of denial  
9 or revocation.

10 (2) An applicant or holder of a certificate may reapply  
11 for a certificate whenever a felony or misdemeanor  
12 conviction is reversed or dismissed. A termination of  
13 probation and dismissal of charges pursuant to Section  
14 1203.4 of the Penal Code or a dismissal of charges  
15 pursuant to Section 1203.4a of the Penal Code is not a  
16 dismissal for purposes of this section.

17 SEC. 8. Section 13376 of the Vehicle Code is amended  
18 to read:

19 13376. (a) The department shall revoke a schoolbus,  
20 school pupil activity bus, youth bus, or general public  
21 paratransit driver certificate, and shall deny an  
22 application for that certificate, for any of the following  
23 causes:

24 (1) The applicant or certificate holder has been  
25 convicted of any sex offense as defined in Section 44010  
26 of the Education Code, any violent felony listed in  
27 subdivision (c) of Section 667.5 of the Penal Code, or any  
28 serious felony listed in subdivision (c) of Section 1192.7 of  
29 the Penal Code.

30 (2) The applicant has, within the three years  
31 preceding the application date, either been convicted of  
32 a violation of Section 20001, 23103, 23104, 23152, or 23153,  
33 or has his or her driving privilege suspended, revoked, or  
34 placed on probation by the department for a cause  
35 involving the safe operation of a motor vehicle.

36 (3) The applicant has, within the two years preceding  
37 the application date, been convicted of any offense  
38 specified in Section 11361.5 of the Health and Safety  
39 Code.

1 (4) The applicant has failed to meet the prescribed  
2 testing requirements for issuance of the certificate.

3 (b) (1) The department shall revoke a certificate  
4 listed in subdivision (a), following an opportunity to  
5 challenge the validity of the testing described in this  
6 paragraph, for three years if the certificate holder has  
7 received a positive test result for a controlled substance,  
8 as specified in Part 382 (commencing with Section  
9 382.101) of Title 49 of the Code of Federal Regulations  
10 and Section 34520. However, the department shall not  
11 revoke a certificate under this paragraph if the certificate  
12 holder is in compliance with any rehabilitation or return  
13 to duty program that is imposed by the employer that  
14 meets the controlled substances and alcohol use and  
15 testing requirements set forth in Part 382 (commencing  
16 with Section 382.101) of Title 49 of the Code of Federal  
17 Regulations.

18 (2) If an applicant receives a positive test result and  
19 has been provided an opportunity to challenge the  
20 validity of the test, the department shall deny the  
21 application for a certificate listed in subdivision (a) for  
22 three years from the date of the confirmed positive test  
23 result.

24 (3) The carrier that requested the test shall report the  
25 positive test result to the department not later than five  
26 days after receiving notification of the test result on a  
27 form approved by the department.

28 (4) The department shall maintain a positive test  
29 result reported under paragraph (3) in the driving record  
30 of the applicant or certificate holder for three years from  
31 the date the department receives the report.

32 (c) (1) The department may temporarily suspend a  
33 schoolbus, school pupil activity bus, youth bus, or general  
34 public paratransit driver certificate, or temporarily  
35 withhold issuance of a certificate to an applicant, if the  
36 holder or applicant is arrested for or charged with any sex  
37 offense, as defined in Section 44010 of the Education  
38 Code.

39 (2) Upon receipt of a notice of temporary suspension,  
40 or of the department's intent to withhold issuance, of a



1 certificate, the certificate holder or applicant may  
2 request a hearing within 10 days of the effective date of  
3 the department's action.

4 (3) The department shall, upon request of the holder  
5 of, or applicant for, a certificate, within 10 working days  
6 of the receipt of the request, conduct a hearing on  
7 whether the public interest requires suspension or  
8 withholding of the certificate pursuant to paragraph (1).

9 (4) If the charge is dismissed or results in a finding of  
10 not guilty, the department shall immediately terminate  
11 the suspension or resume the application process, and  
12 shall expunge the suspension action taken pursuant to this  
13 subdivision from the record of the applicant or certificate  
14 holder.

15 (d) An applicant or holder of a certificate may reapply  
16 for a certificate whenever a felony or misdemeanor  
17 conviction is reversed or dismissed. A termination of  
18 probation and dismissal of charges pursuant to Section  
19 1203.4 of the Penal Code or a dismissal of charges  
20 pursuant to Section 1203.4a of the Penal Code is not a  
21 dismissal for purposes of this section.

22 (e) The determination of the facts pursuant to this  
23 section is a civil matter which is independent of the  
24 determination of the person's guilt or innocence, has no  
25 collateral estoppel effect on a subsequent criminal  
26 prosecution, and does not preclude the litigation of the  
27 same or similar facts in a criminal proceeding.

28 SEC. 9. Notwithstanding Section 17610 of the  
29 Government Code, if the Commission on State Mandates  
30 determines that this act contains costs mandated by the  
31 state, reimbursement to local agencies and school  
32 districts for those costs shall be made pursuant to Part 7  
33 (commencing with Section 17500) of Division 4 of Title  
34 2 of the Government Code. If the statewide cost of the  
35 claim for reimbursement does not exceed one million  
36 dollars (\$1,000,000), reimbursement shall be made from  
37 the State Mandates Claims Fund.

38 Notwithstanding Section 17580 of the Government  
39 Code, unless otherwise specified, the provisions of this act

1 shall become operative on the same date that the act  
2 takes effect pursuant to the California Constitution.

3 SEC. 10. This act is an urgency statute necessary for  
4 the immediate preservation of the public peace, health,  
5 or safety within the meaning of Article IV of the  
6 Constitution and shall go into immediate effect. The facts  
7 constituting the necessity are:

8 To protect the safety and well-being of pupils in public  
9 and private schools in the state, it is necessary that this act  
10 take effect immediately.

